

### **REMARKS**

In the Office Action of August 17, 2007, the Examiner rejected Claims 17-18 and 20-22 under 35 U.S.C. § 112, first paragraph, and further rejected the claims under 35 U.S.C. § 102 in view of the Belyi et al. reference (U.S. Publication No. 2005/0080717). The Examiner further rejected Claims as being obvious under 35 U.S.C. § 103 over the Belyi reference in view of the Engel et al. reference (U.S. Publication 2004/0138975). By this paper, the Applicant has amended the independent claims of the Office Action in order to highlight the subject matter that the Applicant believes is allowable over the art of record. Hence, reconsideration of the above-captioned application in light of the amendments and remarks contained herein is now respectfully requested.

In the Office Action, the Examiner rejected Claims 17 – 18 and 20 – 22 under 35 U.S.C. §112, first paragraph, contending that Claims 17 and 20 were single means claims. The Applicant notes that these claims do not use means plus function language and, as such, should not be considered single means claims. The Applicant further notes that, while there may be a prohibition on using single means claims, it is permissible to define apparatuses that have only one component. Thus, the Applicant believes that Claims 17 and 20 have been incorrectly rejected by the Examiner.

With respect to the rejections under 35 U.S.C. § 102 and § 103, after carefully reviewing the Belyi and Engel references, the Applicant notes that none of these references, either by themselves or in combination, disclose the concept of performing a risk score analysis on a transaction wherein a possessor of a check that is written by another party is attempting to cash the check. In fact, both Belyi and Engel are simply systems that perform standard risk assessment for accepting checks for payment for goods and services. The risk assessment that is being performed in both Belyi and Engel is not a risk assessment of a second party check, but is a risk assessment of the potential purchaser of the goods and services who is attempting to pay with a check. In fact, there is no discussion anywhere in either Belyi or Engel of the concept of performing a risk analysis and determining a risk score associated with cashing a second party check to a possessor of the check after having obtained positive pay information about the second party who wrote the check. (*See, e.g., Claim 1 as amended.*)

Performing the risk analysis which generates a risk score after the positive pay information has been accessed, provides a more precise indication of the risk of cashing a second party check. The more precise indication of risk allows for more complex weighing of different factors thereby allowing merchants to make the decision to cash or not cash the checks with greater comfort.

Again, Belyi and Engel are completely silent as to performing risk scores on this type of transaction and, as such, neither Engel nor Belyi can be said to either disclose or teach this particular concept. The Applicant believes that the claims as originally filed were distinguishable over the Belyi and Engel references and that the Examiner has failed to provide a *prima facie* case of anticipation or obviousness. Nonetheless, the Applicant has amended the independent claims to more clearly highlight the type of transaction for which the risk scoring is being done. For this reason, the Applicant believes that Claim 1 as amended is allowable over the art of record.

The Applicant further believes that Claims 2-7 define additional patentable subject matter and are further allowable due to their dependencies on Claim 1.

The Applicant further believes that Claims 8, 12, 13, 17, 19, 20, 23, and 26 define additional patentable subject matter and are further allowable due to reasons similar to the reasons given above in conjunction with Claim 1.

The Applicant further believes that Claims 9-11, 14-16, 18, 21, 22, 24, and 25 define additional patentable subject matter and are further allowable due to their respective dependencies on Claims 8, 12, 13, 17, 19, 20, 23 and 26.

No Disclaimers or Disavowals

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, the Applicants are not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. The Applicants reserve the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history

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shall not reasonably infer that the Applicants have made any disclaimers or disavowals of any subject matter supported by the present application.

Co-Pending Applications of Assignee

Applicant wishes to draw the Examiner's attention to the following co-pending applications of the present application's assignee. Applicant notes that the following U.S. Applications are related applications:

Application No.	Filing Date	Attorney Docket No.	Title
10/731,401	12/09/2003	1DATA.098A	SYSTEMS AND METHODS FOR ASSESSING THE RISK OF A FINANCIAL TRANSACTION USING BIOMETRIC INFORMATION
10/731,212	12/09/2003	1DATA.099A	SYSTEMS AND METHODS FOR ASSESSING THE RISK OF A FINANCIAL TRANSACTION USING GEOGRAPHIC-RELATED INFORMATION
10/731,540	12/09/2003	1DATA.101A	SYSTEMS AND METHODS FOR ASSESSING THE RISK OF A FINANCIAL TRANSACTION USING AUTHENTICATING MARKS
11/925,629	10/26/2007	1DATA.101C1	SYSTEMS AND METHODS FOR ASSESSING THE RISK OF A FINANCIAL TRANSACTION USING AUTHENTICATING MARKS
10/730,859	12/09/2003	1DATA.103A	SYSTEMS AND METHODS FOR IDENTIFYING PAYOR LOCATION BASED ON TRANSACTION DATA
10/731,294	12/09/2003	1DATA.104A	SYSTEMS AND METHODS FOR OBTAINING PAYOR INFORMATION AT A POINT OF SALE
10/731,519	12/09/2003	1DATA.105A	SYSTEMS AND METHODS FOR OBTAINING BIOMETRIC INFORMATION AT A POINT OF SALE
10/730,868	12/05/2003	1DATA.106A	SYSTEMS AND METHODS FOR OBTAINING AUTHENTICATION MARKS AT A POINT OF SALE

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#### SUMMARY

Based upon the foregoing, the Applicant believes that the above-captioned application is in condition for allowance and requests the prompt allowance of the same. Should there be any impediment to the prompt allowance of this application that could be resolved by a telephone conference, the Examiner is respectfully requested to call the undersigned at the number shown below.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: 11-19-07

By: \_\_\_\_\_

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